

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

| | | |
|--------------------------|---|------------------------|
| UNITED STATES OF AMERICA |) | CR. NO. 3:20-00727-MGL |
| |) | |
| v. |) | |
| |) | |
| |) | |
| KEVIN MARSH |) | |

MOTION FOR DOWNWARD DEPARTURE

NOW COMES the United States, by and through its undersigned attorneys, to respectfully move the Court, pursuant to Section 5K1.1 of the United States Sentencing Guidelines, to depart downward from the applicable guidelines regarding the Defendant, and in support of such motion, does state as follows:

1. On February 24, 2021, the Defendant pleaded guilty under the terms of a Global Plea Agreement to federal charges for conspiracy to commit mail and wire fraud, in violation of Title 18, United States Code, Section 371 (Dkt. No. 24).

2. The Addendum to the Defendant’s Plea Agreement (Dkt. No. 19) provides:

Per Paragraph 8 of the Plea Agreement, the parties agree that if the Defendant cooperates and otherwise complies with all the terms and conditions of the Plea Agreement, and his cooperation is deemed by the United States as providing substantial assistance in the investigation or prosecution of another person, the United States will file a motion for a downward departure pursuant to U.S.S.G. § 5K1.1, and pursuant to such motion, the United States, the State of South Carolina and the Defendant, agree that the appropriate sentence is a sentence of 24 months (irrespective of any fines and/or forfeitures), to be served in the Federal Bureau of Prisons, followed by concurrent terms of supervised release.

3. For nearly a year, the Defendant has actively cooperated with the Federal Bureau of Investigation (“FBI”), the United States Attorney’s Office (“USAO”), and the South Carolina Attorney General’s Office (“SCAG”). He has been debriefed by the FBI seven times, provided

documents and information through counsel to the USAO, and appeared for additional meetings and interviews with SCAG. The Defendant has provided corroborated information regarding himself and other subjects and targets of investigation, including other former SCANA and Westinghouse employees. He has abided by all the terms and conditions of his Plea Agreement. Further, the Defendant is prepared to testify as a Government witness in the case of *United States of America v. Jeffrey Benjamin*, 3:21-cr-00525-MGL.

4. The Defendant's information and investigative assistance have proven useful, timely, reliable, and significant. As such, his assistance has been substantial, as contemplated by U.S.S.G. § 5K1.1. Under the terms of the Defendant's Plea Agreement, the United States therefore recommends he serve a sentence of twenty-four months in the Federal Bureau of Prisons.

WHEREFORE, the Government moves that this Honorable Court grant the Motion for Downward Departure as herein requested.

Respectfully submitted,

M. RHETT DeHART
ACTING UNITED STATES ATTORNEY

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